

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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| <p>JOVAN M. WILHITE, Petitioner, v. WARDEN RARDIN, Respondent.</p> | <p>2:23-CV-11924-TGB-DRG HON. TERRENCE G. BERG OPINION AND ORDER DENYING THE APPLICATION TO PROCEED IN FORMA PAUPERIS AND DISMISSING THE CASE</p> |
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Petitioner Jovan M. Wilhite is a Federal prisoner incarcerated at the Federal Correctional Institution in Milan, Michigan (“FCI-Milan”). Wilhite brings this pro se petition for a writ of habeas corpus under 28 U.S.C. § 2241, ECF No. 1, alongside an application to proceed in forma pauperis (“IFP”), ECF No. 4.

In his IFP application, Wilhite asserts that he has one hundred and fourteen dollars (\$114.00) in his checking and/or savings account. ECF No. 4, PageID.8. Based on the financial information provided by Petitioner, the Court concludes that Wilhite has not established indigence and that he is capable of paying the five-dollar (\$5.00) filing fee for this action.

Accordingly, the Court **DENIES** the application to proceed in forma pauperis. Moreover, as Wilhite’s allegation of poverty is untrue, the Court must **DENY WITHOUT PREJUDICE** the petition for a writ

of habeas corpus. 28 U.S.C. § 1915(e)(2)(A). Wilhite may submit a new habeas petition with payment of the filing fee in a new case; however, this case will not be reopened.

Further, before Wilhite may appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). A certificate of appealability may issue only if a petitioner makes “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).

When relief is denied on the merits, the “substantial showing” threshold is met where a petitioner demonstrates that reasonable jurists would find the district court’s assessment of the constitutional claim(s) debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484–85 (2000).

When relief is denied on procedural grounds, a certificate of appealability should issue if it is shown that jurists of reason would find debatable whether a petitioner has stated a valid claim of denial of a constitutional right, and jurists of reason would find debatable whether the district court was correct in its procedural ruling. *Id.*

Jurists of reason would not find the Court’s procedural ruling debatable. Therefore, the Court **DENIES** a certificate of appealability. This case is closed. If Wilhite wishes to file a new habeas petition with payment of the filing fee in a new case, he may do so.

SO ORDERED.

Dated: May 22, 2024

/s/Terrence G. Berg

HON. TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that this Order was electronically filed, and the parties and/or counsel of record were served via electronic and/or ordinary mail.

Dated: May 22, 2024

By: /s/T. McGovern
Case Manager

BY THE COURT:

/s/Terrence G. Berg
HON. TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE